

INFORMATION SHEET

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE: Saint Paul District

FILE NUMBER: MVP-2005-59

PROJECT MANAGER: Dale J. Pfeiffle

PROJECT REVIEW/DETERMINATION COMPLETED: In the office? Y ☒ N ☐ Date: Jan. 11, 2004
At the project site? Y ☐ N ☐ Date:

PROJECT LOCATION INFORMATION:

State: Wisconsin

County: Racine

Center coordinates of site by latitude & longitude: 42.8156913096N, 88.1783345114W

Approximate size of site/property (including uplands) in acres: 18.6

Name of waterway or watershed: Upper Fox, Illinois, Wisconsin

Type of Aquatic Resource ¹ :	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear Ft	Unknown
Lake									
River									
Stream									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie Pothole									
Wet Meadow									
Playa Lake									
Vernal Pool									
Natural Pond									
Other Water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able to Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary ☐ Or Approved: ☒

FILE NUMBER: MVP- 2005-59

ADDITIONAL INFORMATION SUPPORTING njd (e.g., paragraph 1 site conditions; paragraphs 2-3 rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 site information on waters of the U.S. occurring onsite): **A wetland delineation completed by a private consultant was received for review and concurrence. The wetland delineation report identified 4-separate wetlands areas within the 18.6 acre parcel. A 6-acre wetland was identified along the Waubeesee Lake shoreline. This wetland is contiguous with Waubeesee Lake, an impoundment to a tributary to the Muskego Canal, which is tributary to the Fox River, a navigable water of the US and is therefore jurisdictional. The other three wetlands identified in the wetland delineation report are confined to isolated depressions that lack a surface water connection and adjacency to nearby Waubeesee Lake. A link between these wetlands and interstate commerce could not be established. Therefore, these wetlands are isolated waters that would not be subject to Corps Section 404 jurisdiction.**